

IN THE MATTER OF:)
)
The Fairview City,)
85 S. State Street)
Fairview, UT 84629)
)
a Utah municipal)
corporation,)
Respondent.)
)

I. PRELIMINARY STATEMENT

1. The Complaint filed in this matter alleges that Respondent violated various requirements applicable to it and contained in 40 C.F.R. §761 and the Toxic Substances Control Act, 15 U.S.C. § 2615 (hereafter "TSCA.") regarding proper handling, labeling, storing, inspecting and disposing of PCBs, PCB articles and PCB electrical equipment.
2. This Consent Agreement (hereafter the "Consent Agreement") applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in the constitution of

Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Agreement.

3. By entering into this agreement, Respondent waives its right to a hearing on any issue of law or fact set forth in this Consent Agreement.
4. Respondent admits the jurisdictional allegations contained herein and neither admits nor denies the specific factual allegations contained in the Complaint filed herein.

II. TERMS OF SETTLEMENT

5. Respondent consents to the issuance of a FINAL ORDER which incorporates the terms and conditions of this Consent Agreement, and explicitly consents and agrees to pay the civil penalty set forth in Paragraphs 6 and 7.
6. Respondent agrees to pay a penalty in the amount of TWO THOUSAND FOUR HUNDRED SIXTY NINE DOLLARS (\$2,469.00) in one payment. Respondent agrees expressly that it will not use any portion of the penalty payment described in this paragraph as an off-set or deduction against federal or state taxes of any kind.
7. Respondent explicitly agrees to tender payment as agreed to herein and prescribed below on or before thirty days (30 days) after entry of the FINAL ORDER in this matter.
8. The payment described in Paragraph 6 above shall be made by remitting a cashiers or certified check, payable to

"Treasurer, United States of America," The check shall be mailed to the following address:

EPA - Region 8
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, PA 15251

The payment must reference Respondent's name and facility address, the EPA Docket Number of this action, and Respondent's Taxpayer Identification Number (T.I.N.). A copy of the transmittal of payment shall be sent simultaneously to the following address:

Regional Hearing Clerk
U.S. EPA, Region VIII (8RC)
999 18th Street, Suite 500
Denver, Co 80202-2466

(and)

Dana J. Stotsky
Senior Enforcement Attorney
U.S. EPA, Region 8 (8ENF-L)
999 18th Street, Suite 300
Denver, Co 80202-2466

9. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if the penalty is not paid when due. Interest will be assessed at the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and

attorneys fees. In addition, a penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. Any such penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 4 C.F.R. §§ 102.13(d) and (e).

10. This Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.
11. This Consent Agreement, upon incorporation into a FINAL ORDER by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the specific violation alleged in the Complaint filed in this matter.
12. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Consent Agreement and to execute and legally bind that party to this Consent Agreement.
13. Each party shall bear its own costs and attorneys fees in connection with all issues associated with the Complaint and Consent Agreement filed in this matter.

IN THE MATTER OF: The Fairview City
EPA Docket Number: TSCA-08-2002-03

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.

Date: 31 January 2003

By: DJJ for

Michael T. Risner, Director
David J. Janik, Supervisor
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Date: 02/05/03

By: SIGNED

Martin Hestmark, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Date: Jan 31, 2003

By: SIGNED

Dana J. Stotsky
Senior Enforcement Attorney
Mail Code: (8ENF-L)
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466
Colorado Bar No.: 14717
Phone: 303-312-6905
Fax: 303-312-6953

THE FAIRVIEW CITY,
Respondent.

Date: 22 Jan '03

By: SIGNED

NAME:

TITLE:

Date: 01/22/03

By: SIGNED

NAME:

TITLE:

Docket No. TSCA-08-2002-03

FINAL ORDER

So ORDERED, this 6th day of February, 2003.

SIGNED
 Alfred C. Smith
 Regional Judicial Officer

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **FAIRVIEW CITY, DOCKET NO.: TSCA-08-2002-03** was filed with the Regional Hearing Clerk on February 6, 2003

Further, the undersigned certifies that a true and correct copy of the document was delivered to Dana Stotsky, Enforcement Attorney, U.S. EPA - Region VIII, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt to:

Glen K. Vernon, Esq.
City Administrator
P. O. Box 97
85 South State Street
Fairview City, UT 84629

and pouch mail to:

Honorable Thomas W. Hoya
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (1900L)
Washington, DC 20460

February 6, 2003

SIGNED

Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON FEBRUARY 6, 2003.**